

## IN THE UNITED STATES DISTRICT COURT

## FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 SHERMAN &amp; ASSOCIATES, INC. ET AL., No. C 11-00827 CRB

12 Plaintiffs,

**ORDER OF SUA SPONTE  
REFERRAL AS TO WHETHER  
CASES ARE RELATED**13 v.  
14 OXFORD INSTRUMENTS, PLC ET AL.,15 Defendants.  
16 \_\_\_\_\_/

17 Northern District of California Civil Local Rule 3-12(c) provides: "Whenever a Judge  
18 believes that a case pending before that Judge is related to another case, the Judge may refer  
19 the case to the Judge assigned to the earliest-filed case with a request that the Judge assigned  
20 to the earliest-filed case consider whether the cases are related."

21 In reviewing the parties' papers in connection with Defendant Patent Owner ASM  
22 America's Motion to Dismiss (dkt. 27), it has come to the Court's attention that this action  
23 might be related to Sherman & Assoc., Inc. v. ASM Int'l N.V. et al., Case No. 05-5008. The  
24 parties agreed at the motion hearing today that the patent at issue in this case was also at  
25 issue in the earlier action. Sherman and ASM are parties in both cases. And, most critically,  
26 it was in order to resolve the earlier action that Sherman and ASM entered into a written  
27 contract whereby Sherman transferred to ASM title to a number of Sherman's patents,  
28 including the patent at issue in this case. Mot. at 3. Resolution of ASM's present Motion

1 depends upon interpreting that contract – specifically, determining whether that contract  
2 confers upon Sherman a sufficient ownership interest to bring this infringement action.

3 Accordingly, pursuant to Rule 3-12(c), this action is referred to the Honorable Judge  
4 Ronald M. Whyte for a determination of whether this action is related to Sherman & Assoc.  
5 Inc. v. ASM Int'l N.V. et al., Case No. 05-5008.

6 **IT IS SO ORDERED.**

7  
8 Dated: November 18, 2011



CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE